

ISSUED: September 20, 2002

D.T.E. 02-13-A

Investigation by the Department of Telecommunications and Energy on its own motion, pursuant to G.L. c. 159, §§ 12, 32, and 39 and G.L. c. 166, §§ 11 and 12, regarding the failure by several individually named common carriers of telecommunications services to file their annual returns for the year 2000 by March 31, 2001 and to pay statutory forfeitures.

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In the Matter of

Advanced Telecommunication Network, Inc.	D.T.E. 02-13-2
American Nortel Communications, Inc.	D.T.E. 02-13-3
Apco Telecommunications, Inc. d/b/a Target Telecom	D.T.E. 02-13-4
Business Options, Inc.	D.T.E. 02-13-6
Calls for Less, Inc. d/b/a CfL	D.T.E. 02-13-7
Cash Back Rebates LD.com, Inc.	D.T.E. 02-13-8
Erbia Network, Inc.	D.T.E. 02-13-10
First Regional TeleCom, LLC	D.T.E. 02-13-11
Global Broadband, Inc.	D.T.E. 02-13-12
Global Time, Inc.	D.T.E. 02-13-13
INET Interactive Network System, Inc.	D.T.E. 02-13-14
Legends Communications, Inc.	D.T.E. 02-13-16
Lyxom, Inc.	D.T.E. 02-13-17
NOR Communications, Inc.	D.T.E. 02-13-18
Nova Telecom, Inc	D.T.E. 02-13-20
Orion Telecommunications Corp.	D.T.E. 02-13-21
Ozark Telecom, Inc.	D.T.E. 02-13-22
Paradigm Communications Corp. d/b/a Global Telecommunications Network	D.T.E. 02-13-23
Professional Communications Services, Inc. d/b/a PROCOM	D.T.E. 02-13-24
Sterling Time Company	D.T.E. 02-13-26
Telera Communications, Inc.	D.T.E. 02-13-27
Uki Communications, Inc.	D.T.E. 02-13-28
United Technological Systems, Inc. d/b/a Uni-Tel	D.T.E. 02-13-29
Voice Vision International, Inc.	D.T.E. 02-13-30
Xtracom, Inc.	D.T.E. 02-13-31

## I. INTRODUCTION

The Department requires all common carriers that are engaged in the “transmission of intelligence within the commonwealth,” i.e. telecommunications services, to be registered by having an approved tariff on file with the Department as well as a current statement of business operations. Regulatory Treatment of Telecommunications Common Carriers Within the Commonwealth of Massachusetts, D.P.U. 93-98 (1994), at 12; see also G.L. c. 159, § 12. All common carriers of telecommunications services within the Commonwealth also must file with the Department annual returns for the year ended December 31, by March 31 of the following year, in a format prescribed by the Department. G.L. c. 159, §§ 12, 32; G.L. c. 166, § 11. Therefore, the deadline for filing annual returns for the year 2000 was March 31, 2001, absent any extensions that the Department may grant for good cause. G.L. c. 159, § 32; G.L. c. 166, § 11.

Any telephone company that neglects to file the required annual return forfeits to the Commonwealth five dollars per day for the first fifteen days that the neglect continues, ten dollars per day for the next fifteen days, and fifteen dollars per day for each day thereafter. G.L. c. 166, § 12. Further, if the Department determines that a telephone company “unreasonably refuses or neglects to make such return,” the company shall forfeit up to \$500 in addition. Id. If, in the judgment of the Department, a common carrier neglects to make returns as required by law, the Department is obligated to present the facts to the Attorney General for action. G.L. c. 159, § 39.

A significant number of telephone companies failed to file annual returns on a timely basis and pay statutory forfeitures to the Commonwealth for the year 2000. Therefore, on April 8, 2002, the Department opened separate investigations into the failure by each of these companies to file annual returns or to pay the statutory forfeiture. Although this Order pertains to several proceedings with nearly identical facts, the dockets are not consolidated; thus, the findings of fact and directives issued today are applicable to each company, individually.

## II. PROCEDURAL HISTORY

The Department opened investigations regarding the following companies: Advanced Telecommunication Network, Inc., docketed as D.T.E. 02-13-2; American Nortel Communications, Inc., docketed as D.T.E. 02-13-3; Apco Telecommunications, Inc. d/b/a Target Telecom, docketed as D.T.E. 02-13-4; Business Options, Inc., docketed as D.T.E. 02-13-6; Calls for Less d/b/a CfL, docketed as D.T.E. 02-13-7; Cash Back Rebates LD.com, Inc., docketed as D.T.E. 02-13-8; Erbia Network, Inc., docketed as D.T.E. 02-13-10; First Regional TeleCom, LLC, docketed as D.T.E. 02-13-11; Global Broadband, Inc., docketed as D.T.E. 02-13-12; Global Time, Inc., docketed as D.T.E. 02-13-13; INET Interactive Network System, Inc., docketed as D.T.E. 02-13-14; Legends Communications, Inc., docketed as D.T.E. 02-13-16; Lyxom, Inc., docketed as D.T.E. 02-13-17; NOR Communications, Inc., docketed as D.T.E. 02-13-18; Nova Telecom, Inc., docketed as D.T.E. 02-13-20; Orion Telecommunications Corp., docketed as D.T.E. 02-13-21; Ozark Telecom, Inc., docketed as D.T.E. 02-13-22; Paradigm Communications Corp. d/b/a Global Telecommunications Network, docketed as

D.T.E. 02-13-23; Professional Communications Services, Inc. d/b/a PROCOM, docketed as D.T.E. 02-13-24; Sterling Time Company, docketed as D.T.E. 02-13-26; Telera Communications, Inc., docketed as D.T.E. 02-13-27; Uki Communications, Inc., docketed as D.T.E. 02-13-28; United Technological Systems, Inc. d/b/a Uni-Tel, docketed as D.T.E. 02-13-29; Voice Vision International, Inc., docketed as D.T.E. 02-13-30; and Xtracom, Inc., docketed as D.T.E. 02-13-31. Pursuant to notice duly issued, the Department conducted public hearings and evidentiary hearings in each of these proceedings on April 25, 2002 and April 26, 2002. No party entered an appearance or filed comments. The evidentiary record in each proceeding contains five exhibits.<sup>1</sup>

### III. ANALYSIS & FINDINGS

Each company that this Order addresses was a registered common carrier of telecommunications services during the year 2000, because each company had an approved tariff and statement of business operations on file with the Department. D.P.U. 93-98, at 12. Therefore, each company was obligated to file its annual return for the year 2000 by March 31, 2001. G.L. c. 159, § 32; G.L. c. 166, § 11. Prior to commencing these investigations, the Department had offered each of these companies an extension to file its annual return without incurring the statutory forfeiture, but only if the company did so by July 28, 2001 (Exh. 3). To date, none of these companies filed its annual return for the year 2000. Moreover, the Department did not allow any additional extensions.

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<sup>1</sup> Because the exhibits in each proceeding are essentially identical in nature, all references to exhibits in this Order will omit the docket number and simply refer to the corresponding exhibit number; e.g. Exhibit 1.

The Department served its notice of investigation and hearing upon each of these companies advising each company that the Department was investigating the company's neglect to file annual returns and that failure to respond or to produce the information requested in the notice would lead to adverse findings of fact and orders for corrective action. None of these companies responded to the notice. Accordingly, the Department finds that each of these companies neglected to file its annual return by March 31, 2001, and that the daily statutory forfeiture to the Commonwealth of Massachusetts pursuant to G.L. c. 166, § 12 applies to each company calculated from that date. These forfeitures continue to accrue.

Finally, the Department must consider whether each company's refusal or neglect to file was unreasonable. G.L. c. 166, § 12. Every telephone company that files a tariff and a statement of business operations with the Department makes a representation that it has the managerial, technical, operational, and financial ability to comply with statutory requirements and the Department's tariff review process, and the Department deems a registered company capable unless it specifically finds otherwise. See D.P.U. 93-98, at 12. The companies have provided no excuse for the failure to file their returns more than one year after the deadline. Moreover, in addition to failing to respond to the notice of these investigations, each company ignored or failed to respond to three separate notices from the Department's Telecommunications Division reminding the company that it failed to file its annual return (Exhs. 3 - 5). Although the Department is not required to provide reminders to companies that have represented to the Department that they have the ability to comply with the Commonwealth's statutory requirements, the companies' failure to respond compounds those

companies' neglect of their reporting obligations. Accordingly, the Department finds that the refusal or neglect by each of these companies to file returns is unreasonable. Therefore, both the continuing daily forfeiture, accrued from March 31, 2001, as well as the additional \$500 forfeiture, as provided in G.L. c. 166, § 12, are applicable to each company.

IV. ORDER

After notice, opportunity for comment, and due consideration, it is

ORDERED that the findings reached herein are applicable to Advanced Telecommunication Network, Inc. individually in D.T.E. 02-13-2; and it is

FURTHER ORDERED that the findings reached herein are applicable to American Nortel Communications, Inc. individually in D.T.E. 02-13-3; and it is

FURTHER ORDERED that the findings reached herein are applicable to Apco Telecommunications, Inc. d/b/a Target Telecom individually in D.T.E. 02-13-4; and it is

FURTHER ORDERED that the findings reached herein are applicable to Business Options, Inc. individually in D.T.E. 02-13-6; and it is

FURTHER ORDERED that the findings reached herein are applicable to Calls for Less d/b/a Cfl individually in D.T.E. 02-13-7; and it is

FURTHER ORDERED that the findings reached herein are applicable to Cash Back Rebates LD.com, Inc. individually in D.T.E. 02-13-8; and it is

FURTHER ORDERED that the findings reached herein are applicable to Erbia Network, Inc. individually in D.T.E. 02-13-10; and it is

FURTHER ORDERED that the findings reached herein are applicable to First Regional TeleCom, LLC individually in D.T.E. 02-13-11; and it is

FURTHER ORDERED that the findings reached herein are applicable to Global Broadband, Inc. individually in D.T.E. 02-13-12; and it is

FURTHER ORDERED that the findings reached herein are applicable to Global Time, Inc. individually in D.T.E. 02-13-13; and it is

FURTHER ORDERED that the findings reached herein are applicable to INET Interactive Network System, Inc. individually in D.T.E. 02-13-14; and it is

FURTHER ORDERED that the findings reached herein are applicable to Legends Communications, Inc. individually in D.T.E. 02-13-16; and it is

FURTHER ORDERED that the findings reached herein are applicable to Lyxom, Inc. individually in D.T.E. 02-13-17; and it is

FURTHER ORDERED that the findings reached herein are applicable to NOR Communications individually in D.T.E. 02-13-18; and it is

FURTHER ORDERED that the findings reached herein are applicable to Nova Telecom, Inc. individually in D.T.E. 02-13-20; and it is

FURTHER ORDERED that the findings reached herein are applicable to Orion Telecommunications Corp. individually in D.T.E. 02-13-21; and it is

FURTHER ORDERED that the findings reached herein are applicable to Ozark Telecom, Inc. individually in D.T.E. 02-13-22; and it is

FURTHER ORDERED that the findings reached herein are applicable to Paradigm Communications Corp. d/b/a Global Telecommunications Network individually in D.T.E. 02-13-23; and it is

FURTHER ORDERED that the findings reached herein are applicable to Professional Communications Services, Inc. d/b/a PROCOM individually in D.T.E. 02-13-24; and it is

FURTHER ORDERED that the findings reached herein are applicable to Sterling Time Company individually in D.T.E. 02-13-26; and it is

FURTHER ORDERED that the findings reached herein are applicable to Telera Communications, Inc. individually in D.T.E. 02-13-27; and it is

FURTHER ORDERED that the findings reached herein are applicable to Uki Communications, Inc. individually in D.T.E. 02-13-28; and it is

FURTHER ORDERED that the findings reached herein are applicable to United Technological Systems, Inc. d/b/a Uni-Tel individually in D.T.E. 02-13-29; and it is

FURTHER ORDERED that the findings reached herein are applicable to Voice Vision International, Inc. individually in D.T.E. 02-13-30; and it is

FURTHER ORDERED that the findings reached herein are applicable to Xtracom, Inc. individually in D.T.E. 02-13-31; and it is

FURTHER ORDERED that each company addressed individually in this Order shall immediately file its annual return for the year 2000 and pay to the Commonwealth of Massachusetts the applicable statutory forfeitures consistent with this Order; and it is



FURTHER ORDERED that the findings of fact and directives herein shall be presented to the Attorney General of the Commonwealth of Massachusetts for action pursuant to G.L. c. 159, § 39.

By Order of the Department,

\_\_\_\_\_/s\_\_\_\_\_  
Paul B. Vasington, Chairman

\_\_\_\_\_/s\_\_\_\_\_  
James Connelly, Commissioner

\_\_\_\_\_/s\_\_\_\_\_  
W. Robert Keating, Commissioner

\_\_\_\_\_/s\_\_\_\_\_  
Eugene J. Sullivan, Jr., Commissioner

\_\_\_\_\_/s\_\_\_\_\_  
Deirdre K. Manning, Commissioner

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. (Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).